

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re:
CIRCUIT CITY STORES, INC.
Debtor.

Chapter: 11
Case No: 08-35653 krh

MOTION FOR RECONSIDERATION OF THE COURT'S JULY 20, 2009, ORDER ON DEBTORS' NINTH OMNIBUS OBJECTION (Dkt. No. 4171) FOR THE PURPOSE OF VACATING ITS DISALLOWANCE OF THE STATE OF WISCONSIN'S CLAIM FILED PRIOR TO THE MAY 11, 2009, GOVERNMENTAL BAR DATE

The State of Wisconsin – Office of State Treasurer (“the State”), pursuant to 11 U.S.C. §502(j) and F.R.B.P. 3008, moves the Court for reconsideration of its July 20, 2009, Order On Debtors’ Ninth Omnibus Objection To Certain (I) Late Claims and (II) Late 503(B)(9) Claims (Dkt. 4171), for the purpose of vacating the Court’s disallowance of the State’s Claim filed on April 3, 2009, well before the May 11, 2009, Governmental Bar Date.

The Grounds for this motion are that, on April 3, 2009, the State filed the attached proof of claim, which the Debtors acknowledge was received on April 3, 2009. (Ex. A). On May 1, 2009, the State filed an Amended proof of claim, merely including additional documentation with its claim. (Ex. B.). The Debtors acknowledge that the claim was originally received on April 3, 2009. *See* Exhibit C attached to Debtors’ Ninth Omnibus Objection at p. 39 of 45 (Dkt. 3509); Exhibit A attached to the Court’s July 20, 2009 Order at p. 47 of 55 (Dkt. 4171). On June 9, 2009, the State received Debtors’ Ninth Omnibus Objection. Regarding the Late Claims, the motion objected to the allowance of claims listed in Exhibit C, “a list of claims that were filed by non-governmental

William H. Ramsey, AAG
Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
Telephone: (608) 266-7477
Facsimile: (608) 267-2223
ramseywh@doj.state.wi.us

entities who filed claims alleging claims after the General Bar Date (the “Late General Unsecured Claims”). (Dkt. #3509, ¶18). Because the list purported to address only non-governmental claims, the State’s undersigned counsel did not review Exhibit C, which erroneously included the State’s Claim. Upon receipt of the Court’s Order On Debtor’s Ninth Omnibus Objection To Certain (I) Late Claims and (II) Late 503(B)(9) Claims, the State’s undersigned counsel became aware that its claim had been disallowed as late, although the Claim was filed well before the May 11, 2009, Governmental Bar Date.

Section 502(j) of the Bankruptcy Code provides, in relevant part, that “[a] claim that has been allowed or disallowed may be reconsidered for cause. A reconsidered claim may be allowed or disallowed according to the equities of the case.” 11 U.S.C. §502(j). In assessing whether cause exists, courts pay particular attention to (1) possible prejudice to the Debtor, (2) a creditors explanation for its delay in contesting an objection to a claim and, (3) possible prejudice to the creditor absent reconsideration. *In re Cassell*, 206 B.R. 853, 856 (Bankr. W.D. Va. 1997).

Here, allowance of the State’s claim, filed prior to the May 11, 2009, Governmental Bar Date will not prejudice the Debtors because it was timely filed. The State’s reliance on the representation in the Ninth Omnibus Objection that it dealt only with non-governmental claims is reasonable under the circumstances, and it promptly filed this motion for reconsideration upon learning of the disallowance of its claim. Finally, the State will be prejudiced by the erroneous disallowance of its claim when it was, in fact, timely filed.

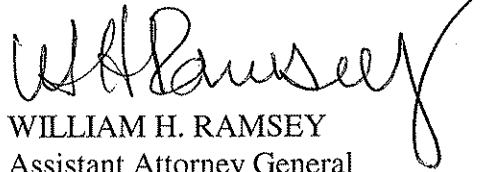
CONCLUSION

Because the State plainly is a “governmental unit” and because it undisputedly filed its proof of claim on April 3, 2009 – before the May 11, 2009 Governmental Bar Date – its claim

was timely filed. Therefore, for the reasons set forth herein, the State respectfully requests that the Court reconsider and vacate its disallowance of State's claim on the basis that it was timely filed.

Dated: July 29, 2009.

J.B. VAN HOLLEN
Attorney General

A handwritten signature in black ink, appearing to read "W. H. Ramsey", with a long, sweeping flourish extending from the end of the name.

WILLIAM H. RAMSEY
Assistant Attorney General
State Bar #1031922

Attorneys for State of Wisconsin

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2009, a true and correct copy of the foregoing MOTION FOR RECONSIDERATION OF THE COURT'S JULY 20, 2009, ORDER ON DEBTORS' NINTH OMNIBUS OBJECTION (DKT. NO. 4171) FOR THE PURPOSE OF VACATING ITS DISALLOWANCE OF THE STATE OF WISCONSIN'S CLAIM FILED PRIOR TO THE MAY 11, 2009, GOVERNMENTAL BAR DATE, was electronically filed with the Clerk of the Court using the CM/ECF system, which will thereby cause the above to be electronically served on all registered users of the ECF system who have filed notices of appearance in this matter, and mailed, by U.S. Mail, first class, postage prepaid, to the following:

Daniel F. Blanks, Esq.
Douglas M. Foley, Esq.
McGuire Woods LLP
9000 World Trade Center
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Norfolk, VA 23510
Counsel for Debtor

Dion W. Hayes, Esq.
Joseph S. Sheerin, Esq.
Sarah Becket Boehm, Esq.
McGuire Woods LLP
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Richmond, VA 23219
Counsel for Debtor

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P. O. Box 636
Wilmington, DE 19899-0636
Counsel for Debtor

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Chicago, IL 60606

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Tavenner & Beran, PLC
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Pachulski Stang Ziehl & Jones LLP
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Counsel for Official Committee of Unsecured Creditors

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Office of the U.S. Trustee
701 E. Broad Street, Suite 4304
Richmond, VA 23219
Counsel for U.S. Trustee

Bruce H. Besanko
9950 Maryland Drive
Richmond, VA 23233

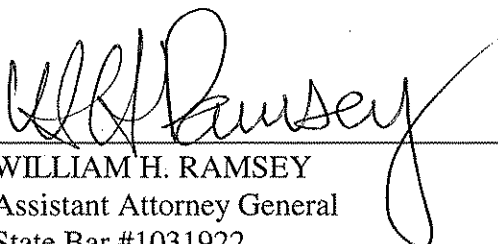

WILLIAM H. RAMSEY
Assistant Attorney General
State Bar #1031922

EXHIBIT A

Circuit City Stores, Claims Processing
Document Page 7 of 17
Dokuman Carsoy Consultants LLC
2335 Alaska Ave
El Segundo, CA 90245

Des. Mail
FIRST CLASS
US POSTAGE PAID
EL SEGUNDO CA
PERMIT NO. 45049

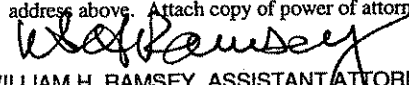
State of Wisconsin Office of State Treasurer
William H Ramsey Assistant Attorney General
Department of Justice
PO Box 7857
Madison, WI 53707-7857

PROOF OF CLAIM CONFIRMATION

Your proof of claim filed against Circuit City Stores, Inc.,
case no 08-35653 was received on 4/3/2009
and assigned claim number 12064

For more information, please visit www.kcralc.net/circuitcity or call 1-866-381-9100

B10 (Official Form 10) (12/07)

UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF VIRGINIA		PROOF OF CLAIM
Name of Debtor: CIRCUIT CITY STORES, INC.		Case Number: 08-35653
<small>NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.</small>		
Name of Creditor (the person or other entity to whom the debtor owes money or property): STATE OF WISCONSIN -- OFFICE OF STATE TREASURER		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____
Name and address where notices should be sent: WILLIAM H. RAMSEY, ASSISTANT ATTORNEY GENERAL DEPARTMENT OF JUSTICE P. O. BOX 7857 MADISON, WI 53707-7857 Telephone number: 608-266-7477		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
Name and address where payment should be sent (if different from above): <div style="text-align: center; font-size: 48px; opacity: 0.5;">COPY</div> Telephone number: _____		
1. Amount of Claim as of Date Case Filed: <u>\$92,096.06</u> If all or part of your claim is secured, complete item 4 below, however, if all of your claim is unsecured, do not complete item 4. If all of part of your claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim. <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier -- 11 U.S.C. §507(a)(4). <input type="checkbox"/> Contributions to an employee benefit plan -- 11 U.S.C. §507(a)(5). <input type="checkbox"/> Up to \$2425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use -- 11 U.S.C. §507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units -- 11 U.S.C. §507(a)(8). <input type="checkbox"/> Other -- Specify applicable paragraph of 11 U.S.C. §507(a)(____). Amount entitled to priority: \$ _____ <small>*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>
2. Basis for Claim: <u>CHECK RETURNED DUE TO INSUFFICIENT FUNDS; UNCLAIMED REBATE CHECKS</u> (See instruction #2 on reverse side.)		
3. Last four digits of any number by which creditor identifies debtor: _____ 3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.)		
4. Secured Claim (See instruction #4 on reverse side). Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other. Describe: Value of Property: \$ _____ Annual Interest Rate _____ % Amount of arrearage and other charges as of time case filed included in secured claim. if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim \$ _____ Amount of Unsecured Claim <u>\$92,096.06</u>		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.		
7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See definition of "redacted" on reverse side.) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain.		
Date: <u>03/30/09</u> Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.  WILLIAM H. RAMSEY, ASSISTANT ATTORNEY GENERAL SBN 1031922		FOR COURT USE ONLY <div style="font-size: 24px; opacity: 0.5;">RECEIVED</div> <div style="font-size: 24px; margin-top: 10px;">APR 03 2009</div> <div style="font-size: 10px; margin-top: 10px;">KURTZMAN CARSON CONSULTANTS</div>

Mail Report To: Wisconsin State Treasurer's Office
Unclaimed Property Division
PO Box 2114
Madison, WI 53701-2114

433391

REPORT OF PROPERTY PRESUMED ABANDONED

(Payment of accounts MUST accompany report)

5550144

Date 10/20/2008 Federal ID # 54-0493875 000 St. of Incorp. VA Dt. of Incorp. 09/13/1949

1. Name of Agency/Company/Holder

CIRCUIT CITY STORES, INC.

9954 MAYLAND DRIVE

RICHMOND VA 23233

Contact 1 LESLIE SPRINKLE

E-mail LESLIE_SPRINKLE@CIRCUITCITY.COM

Phone (804) 486-3984 Ext:

Fax (804) 967-8831

Contact 2

Phone

Ext:

E-mail

2. Did you file a report of abandoned property last year? ☒ Yes ☐ No

If not, please explain: _____

3. NAICS Code

4. Business Classification of Holder (Bank, Credit Union, Savings & Loan, Courts, etc.) _____

5. Summary and Classification of Property Reported/Remitted:

A. Accounts under \$50.00

AMOUNT

\$ 1096.43

B. Accounts over \$50.00 with name UNKNOWN

\$

C. Accounts over \$50.00 with name, etc.

\$ 8099.63

Shares of Stock _____

Total Remitted \$ 10,096.06

Number of safe deposit boxes _____ (To be delivered after February 1)

6. Name of previous holder: If you are a successor to a previous holder of unclaimed property, or if you have changed your name, please list such prior names below

Name _____ Address _____

Name _____ Address _____

12/29/08
Amount Received 10,096.06
Check # 0004871925
Cert #
Share #

Verification

State of Virginia County of Henrico

I, Scott Ash state that I have prepared or have cause to be prepared, and have examined this report as to property presumed abandoned under Chapter 177, Wis. Stats. I am duly authorized to execute this report on behalf of the holder and by law. To the best of my knowledge and belief, said report is true, correct and complete.

Signature _____

Title

Tax Manager

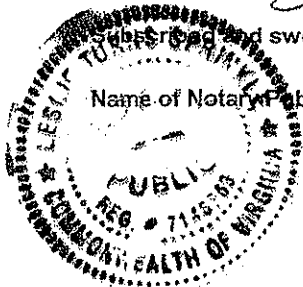
Subscribed and sworn to before me this 29 day of Oct, 20 08

Name of Notary Public

Leslie Sprinkle State VA

Commission Exp. Date 1/31/2011

My Comm. Exps. 1/31/2011



RECEIVED

NOV 03 2008

WISCONSIN STATE
TREASURER

**CIRCUIT
CITY®**

CIRCUIT CITY STORES, INC. (SU)
9950 MAYLAND DRIVE
RICHMOND, VA 23233
(804) 418-8148

SUNTRUST BANK
ATLANTA, GEORGIA

64-79
611

CHECK NUMBER

0004571925

VENDOR NUMBER: 0001019519

PAY Ten thousand ninety six and 06/100 Dollars

PAY EXACTLY

*****\$10,096.06

TO THE STATE OF WISCONSIN
ORDER PO BOX 2114
OF UNCLAIMED PROP DIV TREASURER
MADISON, WI 53701-2114

\$550160

DATE 10/30/08

VOID IF OVER 90 DAYS

CDA NUMBER 8800606660

VOID IF OVER \$200,000.00

⑈004571925⑈ ⑆061100790⑆ 8800606660⑈

FUNCTION: DOCID: CR 585 RI900000006 01/14/09 09:41:07 AM
STATUS: BATID: ORG: 000-000 OF 000

01-

LINE NUMBER: 01 REFERENCE DOC ID: REF LINE NO:
VEND/PROV/CUST: NAME:
BILLING CODE: REFERENCE NUMBER:
FUND: 100 AGENCY: 585 ORG/SUB-ORG:
APPR UNIT: 9 93 B ACTIVITY: REV/SUB-REV:
FUNCTION: OBJ/SUB-OBJ: PROJ NUMBER:
REPT CAT: BS ACCT: 3630 DESC: RETURN ITEM 1-12-09 UNC. PROP.
AMOUNT: 10096.06 I/D: D P/F:

02-

LINE NUMBER: REFERENCE DOC ID: REF LINE NO:
VEND/PROV/CUST: NAME:
BILLING CODE: REFERENCE NUMBER:
FUND: AGENCY: 585 ORG/SUB-ORG:
APPR UNIT: ACTIVITY: REV/SUB-REV:
FUNCTION: OBJ/SUB-OBJ: PROJ NUMBER:
REPT CAT: BS ACCT: DESC:
AMOUNT: I/D: P/F:

SUBJECT TO THE PROTECTIVE AND NON-DISCLOSURE ORDER CONFIDENTIAL AND NON-PUBLIC INFORMATION SUBJECT TO THE PROTECTIVE AND NON-DISCLOSURE ORDER ENTERED BY THE IOWA DISTRICT COURT FOR POLK COUNTY DATED NOVEMBER 14, 2006

**SUMMARY OF UNCLAIMED REBATE CHECKS ISSUED BY CIRCUIT CITY
DUE TO OWNERS WITH LAST KNOWN ADDRESS IN WISCONSIN**

Property due November 1, 2006:	\$7,000.00
Property due November 1, 2007:	\$25,000.00
Property due November 1, 2008:	\$50,000.00

ESTIMATED PROPERTY REBATE TOTAL \$82,000.00

EXHIBIT B

Circuit City Stores, Inc. v. Kmart LLC
Document 4327-17
2335 Alaska Ave
El Segundo, CA 90245

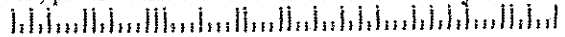
Post Mail
US POSTAGE PAID
EL SEGUNDO CA
PERMIT NO. 45049

State of Wisconsin Office of State Treasurer
William H Ramsey Assistant Attorney General
Department of Justice
PO Box 7857
Madison, WI 53707-7857

PROOF OF CLAIM CONFIRMATION

Your proof of claim filed against Circuit City Stores, Inc.,
case no 08-35653 was received on 5/1/2009
and assigned claim number 12767

For more information, please visit www.kccllc.net/circuitcity or call 1-866-381-9100



B10 (Official Form 10) (12/07)

UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF VIRGINIA

PROOF OF CLAIM

Name of Debtor: CIRCUIT CITY STORES, INC.

Case Number: 08-35653

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Name of Creditor (the person or other entity to whom the debtor owes money or property):
STATE OF WISCONSIN - OFFICE OF STATE TREASURER

☐ Check this box to indicate that this claim amends a previously filed claim.

Name and address where notices should be sent:
WILLIAM H. RAMSEY, ASSISTANT ATTORNEY GENERAL
DEPARTMENT OF JUSTICE
P. O. BOX 7857
MADISON, WI 53707-7857
Telephone number: 608-266-7477

Court Claim Number: _____
(If known)

Filed on: 04/03/2008

Name and address where payment should be sent (if different from above):

☐ Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

Telephone number:

☐ Check this box if you are the debtor or trustee in this case.

1. Amount of Claim as of Date Case Filed: \$92,096.06

If all or part of your claim is secured, complete item 4 below, however, if all of your claim is unsecured, do not complete item 4.

If all of part of your claim is entitled to priority, complete item 5.

☐ Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.

2. Basis for Claim: CHECK RETURNED DUE TO INSUFFICIENT FUNDS; UNCLAIMED REBATE CHECKS
(See instruction #2 on reverse side.)

3. Last four digits of any number by which creditor identifies debtor: _____

3a. Debtor may have scheduled account as: _____
(See instruction #3a on reverse side.)

4. Secured Claim (See instruction #4 on reverse side.)

Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.

Nature of property or right of setoff: ☒ Real Estate ☐ Motor Vehicle ☐ Other
Describe:

Value of Property: \$ _____ Annual Interest Rate _____ %

Amount of arrearage and other charges as of time case filed included in secured claim.

if any: \$ _____ Basis for perfection: _____

Amount of Secured Claim \$ _____ Amount of Unsecured Claim \$92,096.06

6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.

7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See definition of "redacted" on reverse side.)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain.

5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.

Specify the priority of the claim.

☐ Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).

☐ Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. §507(a)(4).

☐ Contributions to an employee benefit plan - 11 U.S.C. §507(a)(5).

☐ Up to \$2425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507(a)(7).

☐ Taxes or penalties owed to governmental units - 11 U.S.C. §507(a)(8).

☐ Other - Specify applicable paragraph of 11 U.S.C. §507(a)(____).

Amount entitled to priority:

\$ _____

*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

Date: 04/27/09

Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.



WILLIAM H. RAMSEY, ASSISTANT ATTORNEY GENERAL SBN 1031922

FOR COURT USE ONLY

RECEIVED

MAY 01 2009

KURTZMAN CARSON CONSULTANTS